

Message Text

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43

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 7611

INFO ALL CONSULATES IN MEXICO (POUCH)

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EO 11652 : N/A

TAGS : CASC MX

SUBJ : W/W: ARRESTS: MOYA PALENCIA CONFERENCE WITH GOM CHAMBER
OF DEPUTIES RE TRANSFER OF SANCTIONS AMENDMENT TO MEXICAN
CONSTITUTION

1. GOM SECRETARY OF INTERIOR MOYA PALENCIA MADE SEPT 23
NATIONALLY TELEVISED APPEARANCE BEFORE CHAMBER OF DEPUTIES
TO EXPLAIN PROPOSED AMENDMENT TO ARTICLE 18 OF MEXICAN
CONSTITUTION. AMENDMENT WILL AUTHORIZE GOM TO ENTER INTO
EXCHANGE OF SANCTIONS AGREEMENT CONTEMPLATED WITH US. PRESS
SEPT 24 WAS LOW KEY, FACTUAL.

2. MAJOR COMMENTS BY MOYA PALENCIA INCLUDED:

A) RESPECT OF INDIVIDUAL FREEDOM - NO PRISONER WILL BE
MADE TO RETURN TO COUNTRY OF ORIGIN AGAINST HIS WILL UNDER
TRANSFER OF SANCTIONS PROPOSAL. IDENTIFICATION OF TRANSFEREES
ON INDIVIDUAL BASIS WITH PRINCIPAL CONSIDERATION BEING THE
PRISONER'S REHABILITATION. MOYA STRESSED
TRANSFER OF REHABILITATION" INSTEAD OF "PRI-
SONER EXCHANGE". LATTER EXPRESSION REFERRED
TO MOYA'S OPINION THAT THIS TRANSFER IS NOT
A "STATE OF WAR" TYPE OF EXCHANGE.

B. RECEIVING COUNTRY'S PRISON REGULATIONS WILL
APPLY TO TRANSFERRED PRISONERS, I.E., VISITING
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RIGHTS, NATURE OF UNIFORM, ETC.

C. PRECEDENTS - MOYA REFERRED TO AGREEMENTS BETWEEN CANADA AND SEVERAL UNNAMED COUNTRIES; A 1963 AGREEMENT AMONG FIVE SCANDINAVIAN COUNTRIES; AND A 1972 AGREEMENT BETWEEN 17 OTHER EUROPEAN COUNTRIES RE TRANSFER OF SANCTIONS AS PRECEDENTS FOR THIS TYPE OF AGREEMENT.

D. TERRITORIALITY - MOYA STATED GOM OPINION THAT "TRANSFER OF SANCTIONS" AGREEMENT WOULD NOT DIMINISH MEXICAN TERRITORIAL SOVEREIGNTY. HE POINTED OUT THAT MEXICAN LEGAL REQUIREMENTS WOULD STILL BE FULFILLED BY PRISONERS, JUST AS UNDER CURRENT MEXICAN SYSTEM PRISONERS MAY SERVE IN DIFFERENT STATE THAN SITE OF CRIME.

E. POLITICAL CRIMES - WILL GENERALLY NOT BE ELIGIBLE FOR CONSIDERATION IN THIS PROGRAM ACCORDING TO MOYA. HOWEVER, MOYA DID CITE EXAMPLE OF POSSIBLE TERRORISM WHICH COULD BE CONSIDERED PURELY CRIMINAL RATHER THAN POLITICAL AND THUS BE ELIGIBLE FOR CONSIDERATION. AGAIN MOYA RETURNED TO ORIGINAL REMARK THAT THE TRANSFER DECISION WOULD BE ON CASE BY CASE BASIS.

F. PARDONS - WOULD BE ABLE TO APPLY TO PRISONERS ALTHOUGH INTERNED IN A DIFFERENT COUNTRY PARTICULARLY IF THE PARDON WERE CATEGORIZED AS "NECESSARY" AS RESULT OF SUBSEQUENT EVIDENCE IN THE CASE. MOYA CLARIFIED THAT THE MOST COMMON MEXICAN PARDON, "GRACE", WOULD GENERALLY NOT APPLY TO FOREIGNERS AS IT REQUIRES THAT PRISONERS CONTRIBUTE TO THE BETTERMENT OF MEXICO.

G. ESCAPE ATTEMPTS - WOULD HAVE TO BE TREATED ACCORDING TO RECEIVING COUNTRIES' REGULATIONS, ACCORDING TO MOYA.

H. LENGTH OF SENTENCE - MOYA NOTED THAT PRISONERS UNCLASSIFIED

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WOULD HAVE TO SERVE AT LEAST THE MINIMUM SENTENCE AS ORIGINALLY LEVIED DESPITE POSSIBLE DISCREPANCY OF SENTENCE FOR SAME TYPE OF CRIME IN RECEIVING COUNTRY (EXAMPLE - DIFFERENCE BETWEEN SENTENCE FOR DRUG OFFENSE IN MARIJUANA CASE BETWEEN US AND MEXICO). ALSO, PRISONERS WOULD HAVE TO BE CONSIDERED GUILTY OF A SIMILAR CRIME UNDER LAWS OF RECEIVING

STATE IN ORDER TO BE TRANSFERRED. THOSE
PRISONERS NOT YET SENTENCED WOULD NOT BE
ELIGIBLE.
THOMPSON

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